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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,868	01/12/2001	Jonathan C. Salas	MOON-P004	2417
22877	7590	09/29/2004	EXAMINER	
FERNANDEZ & ASSOCIATES LLP 1047 EL CAMINO REAL SUITE 201 MENLO PARK, CA 94025			BANANKHAAH, MAJID A	
			ART UNIT	PAPER NUMBER
			2127	

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/759,868	SALAS ET AL.
Examiner	Art Unit	
Majid A Banankhah	2127	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 January 2001.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 and 24-29 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-17 and 24-29 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

***DETAILED ACTION***

1. This office action is in response to application filed on January 12 2001. Applicants electing the claims of group (I) without traverse are acknowledged. The elected claims 1-17, and the newly added claims 24-29 are presented for examination.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims are rejected under 35 U.S.C. 103(a) as being unpatentable over Logston et al. (US Pat. No. 6,687,735, hereinafter Logston) in view of Armentrout et al. (US Pat. No. 6,463,457, hereinafter Armentrout).

Per claims 1, and 15, the reference of Logston teaches of allocation of a distributed application among a plurality of servers, wherein a client is coupled to a number of servers (see Logston, Abstract, Fig.2, col. 3, lines 14-31). A client coupled to the plurality of servers to request a computing task (col. 3, Ins. 62- to col. 3, ln. 9); a first server to allocate the computing task to a second server that executes the allocated computing task (col. 3, Ins. 58-61, moving the server portion to a second server within the network). While the reference of Logston teaches of allocating the distributed application to server based on a measured parameter associated with the access of the server portion (col. 4, ln. 55 to col. 5, ln. 7), he fails to explicitly teach that the allocation of the computing task to the second server is performed by matching an attribute of the second server with an attribute of the computing task.

Armentrout et al. in the same field of endeavor teaches of a distributed system wherein the allocation of the load of the server to another processor is based on matching the attributes of the another processor or server (Armentrout, col. 2, Ins. 38-60, and col. 3, Ins. 1-25), for the reason to minimize the idle computation among the servers and use the maximum efficiency of the computational power. It would have been obvious for a person ordinary skill in the art at the time the invention was made to use the matching attribute method of Armentrout with the load distribution method of Logston in order to use the maximum efficiency of the computers and their resources by reducing the idle time and not assigning a high capacity sever to a low demand client request (See Armentrout, col. 4, Ins. 9-16).

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Regarding the dynamic allocation the server portion of distributed applications among multiple server machines, in Logston, it is well known that an application is a computer program that is broken into different component such as task. The method of Logston is applicable to task much the same way as it is applicable to application components and does not reduces its capability by using task because application has the same properties as task.

Per claims 2-3, in the system of Logston the second server and the first server comprises a plurality of Servers (col. 4, ln. 10-14).

Per claim 4, another server allocates the request to the first server. The allocation is dynamic and any server can allocates to any other server after the first initial allocation and this is what exactly Logston teaches (col. 1, ln. 66 to col. 2, ln. 23).

Per claim 5, the attribute of the second server is load capacity. Armentrout teaches of load capacity in col. 4, ln. 66 to col. 5, ln. 14.

Per claim 6, the attribute of the second server is type of application residing on the server. Logston teaches of optimal server load balancing (col. 8, lns 63 to col. 9, ln. 7) and matching application type with the server is a way of optimally operating the system performance, for the reason that it saves time.

Per claims 7-8, the attribute of the second server is idle computing power. Armentrout teaches of computing power in col. 3, ln. 48-55 (idle computational power). Also he teaches of server computational power in col. 4, ln. 66 to col. 5, ln. 14.

Per claim 9, the attribute of the second server is matched to an attribute of the client. Armentrout teaches of the limitation in col. 3, lns. 1-25.

Per claim 10, the attribute of the second server is matched to an attribute of a user. The reference of Armentrout teaches of the attributes of the user in col. 2, lns. 24-29. Additionally, the system of Armentrout is based on the client demand.

Per claim 11, a database contained in the first server that stores the attributes of the second server (see, Armentrout, database server, col. 18, ln. 62 to col. 19, ln.6).

Per claim 12, the database is dynamically upgraded with a current attribute of the second server (Logston, col. 13, lns 51-54, updating statistical database in server farm).

Per claim 13, a database storing user attributes (Armentrout, col. 18, ln. 62 to col. 19, ln. 6).

Per claim 14, a database computing task attributes. Please see the rejection of claims 11-13.

Per claim 16, please see the rejection of claims 5, 8 and 9.

Per claim 17, please see the rejection of claim 12 above.

Per claim 24, managing a set of serve including: creating a record of the attributes of a second set of servers in a database contained in a first set of server; and updating said record in the database, wherein the second set of servers communicates its attributes to the first set of server. Armentrout teaches of a database server wherein the second set of servers can communicates their attributes with the first servers (see, Armentrout, database server, col. 18, ln. 62 to col. 19, ln.6).

Per claim 25, the dynamic scheduling system of Armentrout teaches of this limitation in col. 18, lns. 47-61.

Per claim 26, the transfer of attributes is scheduled by a triggering event (Armentrout, col. 18, lns. 47-61).

Per claim 27, the transfer of attributes is scheduled periodically (Armentrout, col. 12, lns. 15-20, and col. 21, lns. 33-45).

Per claim 28, the step of registering a server from the second set of servers with a server from the first set of server, wherein the transfer of attributes is from the registered second server to the corresponding first server. It is well known that any time there is an association of a server with another server for communication and information forwarding, the addresses of the two should be registered. Since there is a transfer of attributes between the two in the Armentrout (Armentrout, col. 12, lns. 15-20, and col. 21, lns. 33-45), there exist a registering of the servers as well.

Per claim 29, transfer of attributes is broadcasted to all the servers of the first set (see the communication in the server farm in Logston, col. 3, lns. 13-31).

### Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Majid A. Banankhah** whose telephone number is (571) 272-3770. The examiner can normally be reached on Monday – Thursday, 8:00 AM – 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756.

Information regarding the status of an application may be obtained from the patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Majid Banankhah

5/17/04

  
MAJID BANANKHAH  
PRIMARY EXAMINER